

STATE OF CALIFORNIA

Public Utilities Commission  
San Francisco

**M e m o r a n d u m**

**Date:** April 1, 2005

**To:** The Commission  
(Meeting of April 7, 2005)

**From:** Delaney Hunter, Director  
Office of Governmental Affairs (OGA) — Sacramento

**Subject: SB 850 (Escutia) Broadband telecommunications service**  
As Amended March 30, 2005

**LEGISLATIVE SUBCOMMITTEE RECOMMENDATION:** Support.

**SUMMARY:** This bill requires the Commission to submit a report to the Legislature and the State Chief Information Officer on the availability and level of competition for the two-way broadband access by census tract by July 1, 2006.

**DIGEST:** As it pertains to the Commission, this bill adds P.U. Code sec. 871.9 making legislative findings and declarations regarding broadband telecommunications service. This bill also adds P.U. Code sec. 883.5 requiring the Commission to determine the availability of, and the level or degree of competition for, the provision of two-way broadband access, by census tract. This new code section also requires the Commission to submit a report on its findings to the Legislature and the State Chief Information Officer on or before July 1, 2006.

**DIVISION ANALYSIS (Telco):** Our analysis is limited to the section that impacts the Commission, the first part of the proposed bill is to add Section 12019.5 to the Government Code relating to the State Chief Information Officer.

- As is apparent, this proposed bill is introduced based on the premise that about 25 percent of cities in California do not have any broadband access<sup>1</sup>. This information seems to be contradicting the Commission draft report of Broadband Deployment in California (report) dated 02-01-05.<sup>2</sup>

---

1 See proposed Section 871.9, subsection (4) as noted in proposed the bill.

2 Draft of Broadband Deployment report, dated 02-01-05, page 1.

- In all California zip codes one or more of broadband's four technologies (Wireless, DSL, Cable, and Satellite) is/are available and two or more broadband providers serve almost every California zip code (93%).<sup>3</sup>
- California leads the nation in broadband use, both in terms of total number of broadband lines and U.S. market share, and our rate continues to exceed the national average.<sup>4</sup>
- Availability of broadband does not mean that broadband is affordable or is used by certain communities such as low-income consumers, residents of rural areas, and persons with disabilities. This is a state that is commonly referred to as the "digital divide".<sup>5</sup>
- Two subsidy programs are designed to benefit consumers of broadband service by reducing the monthly price and therefore making the service more affordable. These are the California Teleconnect Fund (CTF) and the Federal E-Rate program, providing benefits to consumer end users. The FCC's E-Rate program offers discounts to eligible K-12 schools and libraries and CTF program provides discounts for eligible schools, libraries, hospitals, health clinics and community based organizations.
- The draft report identifies the Rights-of-Way (ROW) permit process as one of the most significant barriers to deployment of broadband and encourages the Legislature to enact a legislation to reform the process for obtaining ROW.<sup>6</sup>
- Many broadband providers (e.g. cable, satellite) do not recognize the Commission's oversight regulatory authority and therefore do not respond to the Commission requests for data.<sup>7</sup> This creates a huge challenge for the Commission in compiling data to determine where and how much broadband is deployed.
- The bill's assertion that 25% of cities in California do not have broadband access does not appear accurate. While many cities do have broadband access, customers within part of those cities may not have access to broadband services or a have choice of broadband providers.

#### **RECOMMENDED AMENDMENTS:**

- Because the Commission does not have jurisdiction over many broadband providers (e.g. cable, satellite), the Commission encounters difficulty in getting reliable and timely data to analyze. Accordingly, the following language be inserted in the proposed Section 883.5 of the Public Utilities Code:

"to require all broadband providers doing business in the state to submit any broadband subscriber and deployment data requested by the commission in their efforts to comply with this legislation."

---

3 Ibid, Section 2.1, pp6-7.

4 Ibid, page 1.

5 Ibid, Section 2.6, page 11.

6 Ibid, Section 9.4, page 77.

7 The Commission Broadband Report in response to SB 1712, Executive Summary

- SB 1563 previously directed the Commission to prepare a report on broadband deployment. This bill may be amended to allow the SB 850 report to provide follow-up analysis on recommendations made in the SB 1563 report.
- Suggest report due date be moved from July 1, 2006, to October 1, 2006, so that Commission can get year end 2005 data from broadband providers and have time to properly test and evaluate data.

## LEGISLATIVE HISTORY

SB 1563 (Chapter 674, Statutes of 2002) required the Commission to convene a proceeding, by April 1, 2003, to develop a plan for encouraging the widespread availability and use of advanced communications infrastructure. SB 1563 also required the Commission to submit a report to the Governor and Legislature of its findings and recommendations regarding the plan by December 31, 2004.

## STATUS

Set for hearing in Senate Energy, Utilities & Communications on April 5, 2005.

## SUPPORT/OPPOSITION

Support: None on file.

Opposition: None on file.

## LEGISLATIVE STAFF CONTACT

Tom Flynn  
OGA

[trf@cpuc.ca.gov](mailto:trf@cpuc.ca.gov)  
(916) 324-8689

Michael Amato  
Telecommunications Division

**Date:** April 1, 2005

BILL NUMBER: SB 850      AMENDED  
BILL TEXT

AMENDED IN SENATE    MARCH 30, 2005

INTRODUCED BY    Senator Escutia

FEBRUARY 22, 2005

An act to add Section ~~13984~~ 12019.5 to the Government Code, and to add Sections 871.9 and 883.5 to the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 850, as amended, Escutia. Broadband telecommunications service.

(1) Under existing law, ~~there is in state government the Business, Transportation and Housing Agency, under the supervision of the Secretary of Business, Transportation and Housing. Existing law requires the secretary to advise the Governor on, and assist the Governor in establishing, major policy and program matters affecting each department, office, or other unit within the agency~~

*the State Chief Information Officer is part of the Governor's Office, and acts as the special advisor to the Governor on information technology issues .*

This bill would require the ~~secretary~~ *State Chief Information Officer* to develop a strategy for making broadband telecommunications service accessible to all areas of the state, as prescribed, and would require the ~~secretary~~

*State Chief Information Officer* to prepare and submit to the Legislature a report on the strategy developed before January 1, 2007.

(2) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law imposes various duties on the commission with regard to the provision of universal telephone and telecommunications service.

This bill would require the commission to determine ~~which geographic areas of the state are lacking broadband telecommunications service availability and which areas are lacking competition in the provision of broadband telecommunications service. The bill would require the commission to prepare and submit a report on its findings to the Legislature and the secretary on or before July 1, 2006~~ *the availability of, and the level or degree of competition for, the provision of two-way broadband access, by census tract, and would require the commission to report its findings to the Legislature and the State Chief Information Officer on or before July 1, 2006 .*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section ~~13984~~ 12019.5 is

added to the Government Code , to read:

~~13984. (a)~~

~~The secretary~~

12019.5. (a) *The State Chief Information Officer* shall develop a strategy for making broadband telecommunications service accessible to all areas of the state. In developing that strategy, the ~~secretary~~ *State Chief Information Officer* shall consider all of the following

(1) How to encourage the deployment of privately financed broadband infrastructure.

(2) Where privately financed infrastructure will not be deployed in a timely manner, how to encourage publicly financed infrastructure.

(3) How public or private partnerships and cooperatives can be utilized.

(b) ~~The secretary shall consult with the state's Chief Information Officer on~~ *State Chief Information Officer* shall determine whether any state-owned or state-controlled facilities can be used in furtherance of the state's universal service policy.

(c) ~~The secretary~~ *Notwithstanding Section 7550.5, the State Chief Information Officer* shall prepare and submit to the Legislature a report on the strategy developed pursuant to this section before January 1, 2007.

SEC. 2. Section 871.9 is added to the Public Utilities Code , to read:

871.9. (a) The Legislature finds and declares all of the following:

(1) California has long had a policy of universal telephone service that resulted in programs that helped individuals obtain affordable access to basic telephone service.

(2) Broadband telecommunications service, whether provided by cable, fiber optic line, or wirelessly, provides much greater capability than basic telephone service.

(3) Broadband telecommunications service has been rapidly adopted, with about 30,000,000 broadband customers nationwide.

(4) However, broadband service is not offered in many areas of this state. About 25 percent of cities in this state do not have any broadband access.

(5) Broadband service is the foundation for our nation's continued technological and economic leadership.

(6) The absence of broadband is a barrier to economic development.

(7) The President of the United States has declared that the country should have universal, affordable broadband access by 2007.

(b) The Legislature further finds and declares that this state's universal service policy should include the concept of universal availability of broadband to all areas of the state.

SEC. 3. Section 883.5 is added to the Public Utilities Code , to read:

883.5. The commission shall determine ~~which geographic areas of the state are lacking broadband telecommunications service availability and which areas are lacking competition in the provision of broadband telecommunications service. The commission shall prepare and submit a report on its findings to the Legislature and to the Secretary of Business, Transportation and Housing on or before July 1, 2006. the availability of, and the level or degree of competition for, the provision of two-way broadband~~

*access, by census tract. Notwithstanding Section 7550.5, the commission shall report its findings to the Legislature and the State Chief Information Officer on or before July 1, 2006.*